

A-09
Ct No.09
04.12.2023
TN

WPA No. 23376 of 2023

Haldia Development Construction
Vs.
The State of West Bengal and others

Mr. Biswajit De,
Mr. Debabrata Chakrabarti,
Ms. Mallika Manna

.... for the petitioner

Mr. Syed Bakhtiyar Adil Rahman,
Ms. Sinthia Bala

.... for the State

- 1.** The writ petitioner is a contractor who was awarded a contract by the Government of West Bengal. The contract was for completing the work of widening and strengthening of Chaitanyapur-Kukrahati Road and Chaitanyapur-Balughata Road for a certain expanse under the Tamluk Division of the PWD in the District of Purba Medinipur within a stipulated period of 730 days. Due to encroachment, the work could not be proceeded with, for which the time was extended several times, lastly till this month.
- 2.** It is contended by learned counsel for the petitioner that two writ petitions are pending at the behest of encroachers, in which no interim order, however, has been passed.

3. It is submitted that the respondents be directed to take immediate steps for removal of the encroachment for the work to proceed.
4. Learned counsel for the respondent-authorities submits that the Assistant Engineer has already registered a complaint which has given rise to an FIR and a proceeding under Section 10(3) of the West Bengal Highways Act, 1964 is already going on.
5. As such, the allegation that the respondents are not doing anything in that regard is incorrect.
6. During arguments, learned counsel for the petitioner seeks liberty to implead the concerned authority under the Highways Act seeking for a direction of the proceeding under Section 10(3) to be disposed of expeditiously. However, such leave cannot be granted since the petitioner, although consequentially affected by the pendency of the proceeding, is neither a necessary nor a proper party thereto and does not have the *locus standi* to seek early disposal of the proceeding under Section 10(3) of the Highways Act, since it is for the State, which is the initiator of such proceeding against the alleged encroachers, which is the concerned authority which must seek such a remedy if necessary.

- 7.** In any event, since the proceedings are already going on, the petitioner does not have a cause of action to move the present writ petition only on the strength of the contract between the parties. Insofar as the petitioner being affected for not having completed the work within the contractual period is concerned, the writ petition would be premature on such score as well, since the respondent-authorities have not made any adverse claim against the petitioner on the ground of such delay but have rather extended the period of work from time to time.
- 8.** Hence, there is no scope of interference in the present writ petition.
- 9.** Accordingly, WPA No. 23376 of 2023 is dismissed without any order as to costs.
- 10.** Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)